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C O N F I D E N T I A L SECTION 01 OF 02 ROME 000711

SIPDIS

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TAGS: [PREL](#) [PTER](#) [KFIN](#) [IT](#)

SUBJECT: ITALY/TERROR FINANCE: A NEW PROCEDURE ON 1267
DELISTING REQUESTS

REF: A. STATE 024914

[1](#)B. 07 ROME 002515

Classified By: Econ Counselor William R. Meara
for Reasons 1.4 (b) and (d).

[1](#)1. (C) Summary: The Italian Government has determined that it cannot continue to support the 1267 (al-Qaida/Taliban) listing of its nationals if they have been cleared of criminal charges. Italy will support delisting requests from persons cleared of charges, but it will forward delisting requests through the Ministry of Foreign Affairs. The Italian MFA is shielded from domestic information requests, helping the MFA avoid having to disclose the deliberations of the 1267 Committee. The Nada and Himmat Cases will be the first application of this policy. End summary.

[1](#)2. (C) Background: Italian citizen Youseff M. Nada,s request to be delisted from UN 1267 (al-Qaida/Taliban) sanctions was denied in September 2007 by the 1267 Committee. The 1267 Committee had denied Nada,s fellow Italian citizen Ali Ghaleb Himmat,s delisting request in November 2007. A third associate, Ahmed Idriss Nasreddin, was delisted from the 1267 List in November 2007. Domestic legal proceedings cleared all three individuals in Italian court, but the magistrate overseeing the case noted that he believed all three men had ties to terrorist organizations. The laws prohibiting ties to terrorist organizations, however, took effect after the infractions occurred and the magistrate could not prosecute. Since then, both Nada and Himmat have hired a lawyer who has pressed Italy's FSC, the competent legal authority, to do more to facilitate their delisting from UNSCR 1267 (Reftels A, B). End background.

[1](#)3. (C) On May 8, the FSC finalized the GOI's way forward on de-listing questions. Cristina Collura, head of the Ministry of Finance's Financial Crimes office, told Econoff that the FSC will draft a letter to the lawyer representing both Nada and Himmat stating that they have reviewed each request. Citing the magistrate's opinion that the GOI cannot prosecute Nada and Himmat, the FSC will inform the two individuals that Italy's FSC agreed to seek their delisting from the 1267 Committee. The FSC decision will make clear to Nada and Himmat's lawyer that as far as their domestic responsibilities to both nationals, the Italian government has taken action by asking the MFA to seek delisting at the 1267 committee. However, the letter will clarify the difference between Italy's domestic responsibilities to their nationals and the Ministry of Foreign Affairs responsibilities vis-a-vis UN action. The Ministry of Foreign Affairs will be directed to follow the FSC's policy instruction, but the process by which they carry them out will be protected as a matter of foreign policy. Collura

stressed that this mechanism enables the GOI to fulfill its obligations to its nationals and follows their internal judicial procedures, but also protects the GOI from discussing matters of foreign policy openly with the lawyer. The lawyer for Nada and Himmat has repeatedly requested the FSC to reveal which 1267 Committee member has blocked the delisting request (i.e. the U.S.). This move, by formally handing it over to the MFA, will allow the GOI to keep deliberations at the UN in confidence.

¶4. (C) Collura said that the GOI passed to the 1267 Committee another request for Mr. Nada's appeal, but they will tell the lawyer that the MFA will be handling foreign policy matters, i.e. it is out of the FSC's hands. Concerning Himmat, Collura said that they will inform his lawyer that Italy supported his delisting case, but that the matter is also now being handled by the Foreign Ministry. Econoff spoke with MFA Counterterrorism Officer Jessica Cuppelinini who confirmed the decision and noted that the MFA is aware that the USG will likely veto any further requests for delisting at the 1267 Committee. In a separate conversation, MFA Proliferation Finance Head Gianluca Alberini said that the Italian MFA understood that the second request to the 1267 Committee for Nada would be automatically rejected, however he made clear that the FSC felt they had to act in this matter to comply with their domestic legal obligations.

¶5. (C) Comment: The GOI appears to have arrived at a workable (and very Italian) solution that satisfies domestic judicial obligations regarding the right of Nada and Himmat to appeal their case and still preserving diplomatic discretion. The

ROME 00000711 002 OF 002

FSC remains the competent authority on listing and delisting cases. But, because the MFA sits on the committee, they likely felt that their role on the committee was not protected. The new policy gives the MFA the power to implement delisting and listing cases with discretion. While this may seem to be a minor technicality, our contacts were concerned just how far Nada and Himmat's lawyers would take their information requests. Collura was careful to stress that all FSC decisions are unanimous and the MFA will follow FSC policy instructions. However, after a little pressing, Collura conceded that the MFA may have some flexibility on this matter, which may prove helpful in future delisting cases. Most importantly, Italian diplomatic negotiations, for now, have been shielded from appeals by Nada and Himmat's lawyers, and Italian-U.S. terrorist financing cooperation can proceed apace. End comment.
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